

Decision No. 11728

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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ORIGINAL

In the Matter of the Application of  
A.C.Tidwell for certificate of  
public convenience and necessity to  
operate passenger service between  
Fresno, Stockton, Sacramento to  
Firebaugh, Dos Palos and Los Banos,  
California.

Application No. 8622.

A.C.Tidwell in propria persona.  
James Gallaher, for The Atchison, Topeka  
& Santa Fe Railway Company, protestant.  
Ernest Walling, for Valley Transit Company  
and California Transit, protestants,  
J.E.Simpson, for D.Moyer, protestant.

BY THE COMMISSION:

OPINION

A.C.Tidwell has petitioned the Railroad Commission, in accordance with his application amended at the hearing, for an order declaring that public convenience and necessity require the operation by him of an automobile stage line as a common carrier of ranch laborers between Fresno, Stockton and Sacramento to the ranches of Miller & Lux, Inc., situated in the vicinity of Firebaugh, Dos Palos and Los Banos.

Public hearings on this application were conducted before Examiner Satterwhite at Fresno and Stockton, the matter was submitted and is now ready for decision.

Applicant proposes to charge rates and to operate on a time schedule in accordance with Exhibits "A" and "B" attached to said application, using as equipment two Cadillac automobiles.

The Valley Transit Company, California Transit Company, Atchison, Topeka & Santa Fe Railway Company, Central California Traction Company and D.Moyers protested the granting of said application.

The evidence shows that applicant has entered into an oral agreement with Miller & Lux, Inc., by the terms of which applicant is given the sole privilege of securing or engaging from the State Employment Agencies at Fresno, Stockton and Sacramento farm laborers for the purpose of transporting them to the Miller & Lux, Inc. ranches in the San Joaquin Valley. There are about twenty of these ranches located in the vicinity of Firebaugh, Dos Palos and Los Banos, and the laborers will be secured and delivered from time to time, only upon the orders of Miller & Lux, Inc., as the necessity arises.

No scheduled or regular service will be operated. The proposed fares, or a portion of them, will be collected by Miller & Lux, Inc., for applicant only in event the laborers earn a part or all of their fares; and the reason for this is that most of these farm hands thus secured seldom or ever have funds sufficient to pay fares in advance. The service will be one way and direct to the ranches from Stockton, Sacramento, Fresno and other points along the route where men may occasionally be secured, and no passengers will be carried to either Dos Palos, Firebaugh, Los Banos or other intermediate communities.

The record shows that although applicant asks authority to carry all laborers who may desire transportation to these various Miller & Lux, Inc., ranches, he admits that there is no public demand for such a service and that his proposed operations are based and arise solely out of the private needs of Miller & Lux, Inc., for farm hands and that his verbal understanding, above mentioned, to secure and transport these men to the ranches, may be terminated at any time by Miller & Lux, Inc.

D.Moyers, one of the protestants, who operates an authorized stage service between Fresno and Los Banos gave testimony showing that the route of his stage line passes at least ten of Miller & Lux, Inc., ranches at distances varying from about 50 yards to a mile and a half.

The California Transit Company, protestant, offered in evidence an exhibit showing passengers carried and vacant seats covering operations for a period of six months, between August 1st, 1922 and January 31, 1923. This exhibit indicates that the car capacity and equipment of this protestant is more than ample to carry the passengers presenting themselves for transportation between Sacramento and Merced and between Stockton and Merced.

After a careful consideration of all of the evidence in this proceeding, we are of the opinion and find as a fact, that the public convenience and necessity do not require the proposed service of applicant and that the said application should be denied.

#### ORDER

Public hearings having been held in the above named application; the matter having been submitted and being now ready for decision.

IT IS HEREBY ORDERED that the said application be, and the same is hereby denied.

Dated at San Francisco, this 13<sup>th</sup> day of April 1923.

C. L. Seary  
H. B. Dunning  
Dwight Martin  
J. Whittier  
Commissioners.